



**U S Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to Public Notice No.

Issuance Date:

LRH-2007-484-KAN

September 19, 2007

Stream: Untribs Scary Creek

Closing Date: October 18, 2007

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5710

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 10: The Corps is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the West Virginia Department of Environmental Protection to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Cathcart Construction, LLC
1244 Swan Lake Drive, Suite 403
Charlottesville, VA 22902

LOCATION: The proposed project is located on the Scott Depot USGS quadrangle at latitude 38° 26' 50.57" and longitude 81° 53' 52.79" within unnamed tributaries of Scary Creek, near Scott Depot, Putnam County, West Virginia as depicted on attached **Sheet 1**. Scary Creek flows into the Kanawha River, a navigable water of the United States.

DESCRIPTION: The proposed project would involve the discharge of dredged or fill material into waters of the United States in conjunction with the development of an approximate 111-acre parcel. The proposed Devonshire Development consists of a phased construction approach comprised of apartments, townhouses, condominiums, single family homes, and a main clubhouse and associated amenities.

Proposed activities associated with the construction of the Devonshire Development Project include grading and filling, a road crossing, and detention ponds. Construction of the proposed project would result in the discharge of dredged and/or fill material into waters of the U.S., resulting in adverse impacts to approximately 1,300 linear feet of streams and approximately 0.5 acre of wetland as detailed on attached **Sheet 2**. Proposed work would include direct permanent adverse impacts to approximately 800 linear feet of intermittent stream, and approximately 500 linear feet of perennial stream.

Plans for the proposed development project are attached to this public notice, **Sheets 3-18**.

ALTERNATIVE ANALYSIS: The project is not water dependent and does not require access to or a site within waters of the U.S. to fulfill its basic purpose. Practicable alternatives that do not involve waters of the U.S. are presumed to be available unless clearly demonstrated otherwise. The applicant is required to provide an alternative analysis that must overcome that presumption prior to receiving authorization for the placement of fill material.

COMPENSATORY MITIGATION PLAN: According to the applicant a compensatory mitigation plan is currently being developed to offset impacts to waters of the U.S. A final compensatory mitigation plan would be required for review and approval by this office.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the West Virginia Department of Environmental Protection.

HISTORIC AND CULTURAL RESOURCES: The National Register of Historic Places (NRHP) has been consulted and no properties are currently listed on the register in the area affected by the project. The applicant has submitted a Phase I Archaeological Survey to this office as well as the West Virginia Division of Culture and History (WVDCH). This survey is currently under review. This public notice serves as coordination with the State Historic Preservation Officer regarding historic properties. If the WVDCH believe any potential effects to historic properties may result from the proposed permitting action, we request they provide information to this office pursuant to Section 106 of the National Historic Preservation Act. Comments concerning archaeological sensitivity of a project area should be based upon collected data.

ENDANGERED AND THREATENED SPECIES: The U.S. Fish and Wildlife Service's (USFWS) latest published version of endangered and threatened species has been reviewed to determine if any endangered or threatened species may occur in the project area. The proposed project would be located in a county where the endangered Indiana bat (*Myotis sodalis*) is known to occur. By letter dated July 31, 2007, based on information provided by the applicant, the USFWS concluded that no federally-listed threatened or endangered species are expected to be impacted by the project. Therefore, the proposed project is not likely to adversely affect federally-listed species and no further consultation under the Endangered Species Act (ESA) is required with the USFWS. This public notice serves as a request to the USFWS for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act.

Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.


SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the District Engineer may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear

understanding of the reasons for support or opposition. Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity.

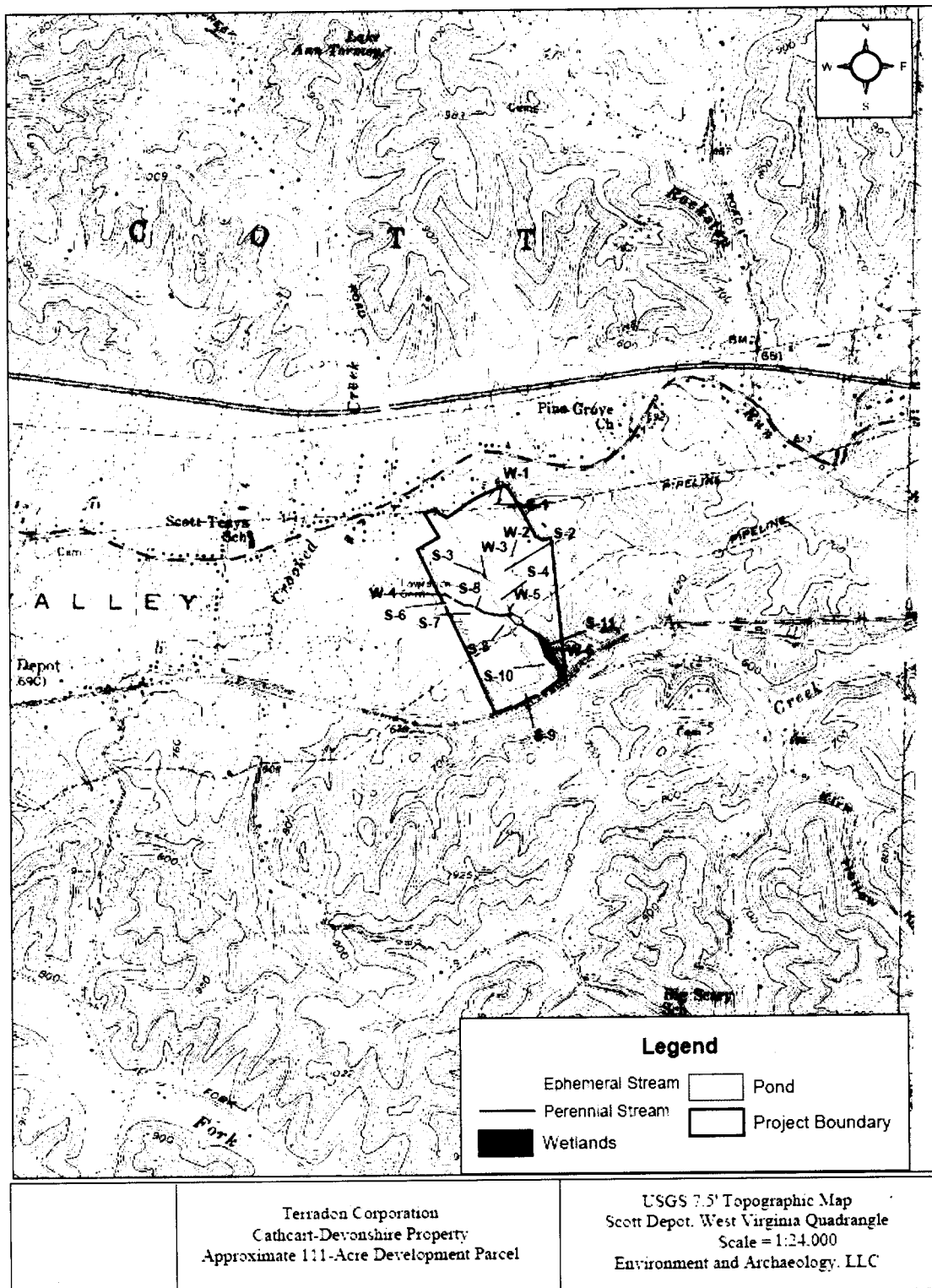
CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to

U.S. Army Corps of Engineers
ATTN: CELRH-OR-FS Public Notice No. LRH-2007-484-KAN
502 Eighth Street
Huntington, West Virginia 25701-2070

If you have any questions concerning this public notice, please call Ms. LuAnne Conley, South Regulatory Section at 304-399-5710.


Ginger Mullins
Chief, Regulatory Branch

(WV)

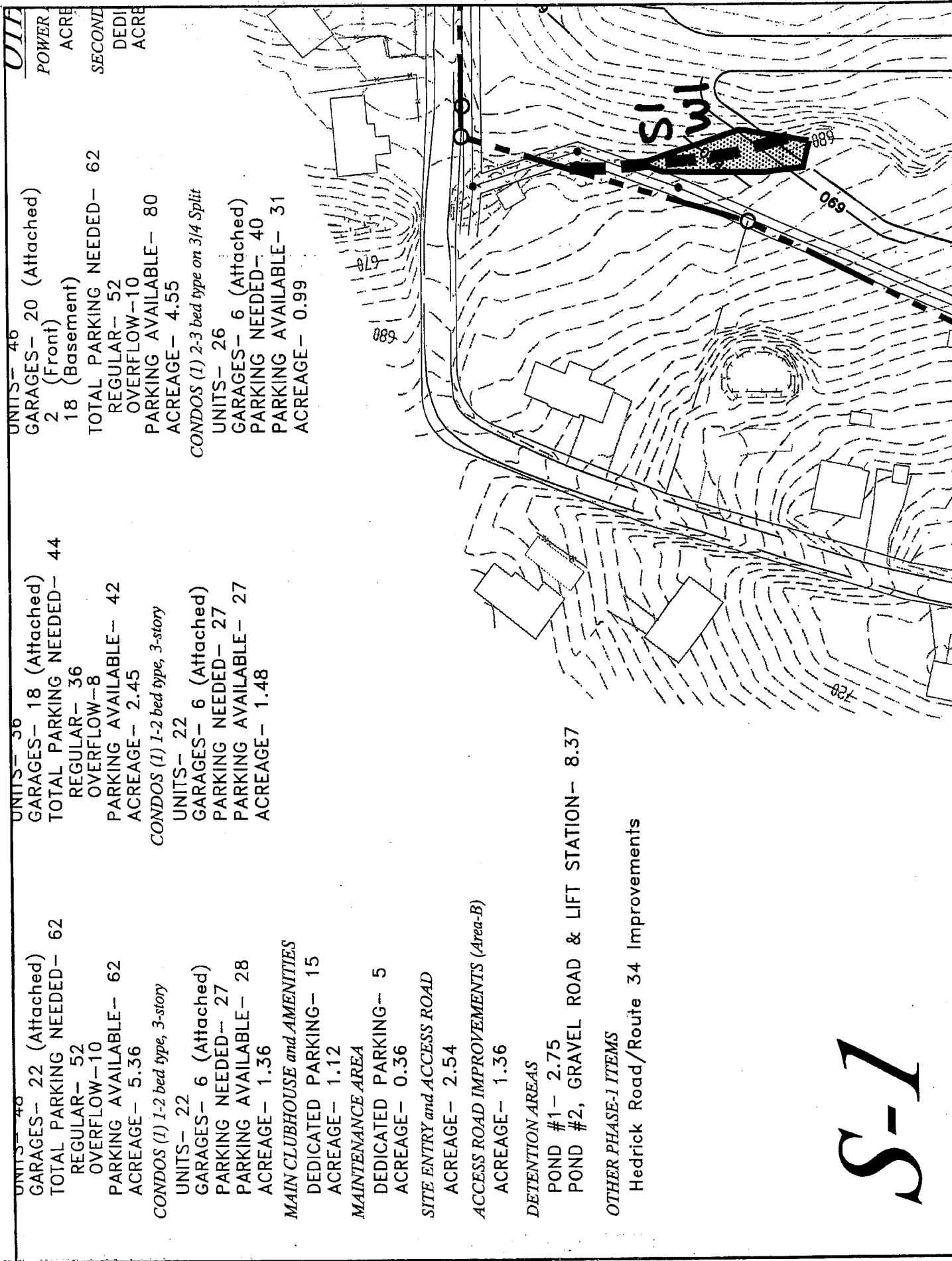


**CATHCART PROPERTIES PROPOSED DEVONSHIRE DEVELOPMENT PARCEL
IDENTIFIED WATERBODIES WITHIN THE 111-ACRE SURVEY AREA
SCARY CREEK WATERSHED, PUTNAM COUNTY, WEST VIRGINIA**

WATERBODY #	WATERBODY TYPE	NW/USGS-IDENTIFIED	BANK DIMENSIONS (FEET)	WATER DIMENSIONS	CROSSING WIDTH (FEET)	WETLAND SIZE (ACRES)* OR LINEAR FEET OF STREAM	IMPACTED BY PROJECT
S1	INTERMITTENT	UNMAPPED TRIBUTARY TO UNNAMED USGS PERENNIAL STREAM	2-5' WIDE X 3' DEEP	0"	2 - 5'	193	94
W1	PEM WETLAND	-	-	NO STANDING WATER	-	0.074	0.063
W2	PEM WETLAND	-	-	NO STANDING WATER	-	0.012	0
S2	INTERMITTENT	UNMAPPED TRIBUTARY TO UNNAMED USGS PERENNIAL STREAM	2' WIDE X 2' DEEP	0"	2'	89	89
S3	INTERMITTENT	UNMAPPED TRIBUTARY TO UNNAMED USGS PERENNIAL STREAM	1' WIDE X 1' DEEP	0"	1'	291	291
W3	PEM WETLAND	-	-	NO STANDING WATER	-	0.19	0.19
S4	INTERMITTENT	UNMAPPED TRIBUTARY TO UNNAMED USGS PERENNIAL STREAM	2.5' WIDE X 1' DEEP	0'-1"	2.5'	529	78
S5	PERENNIAL	UNMAPPED PERENNIAL TRIBUTARY TO SCARY CREEK (1st CROSSING)	2.5' WIDE X 1.5' DEEP	0'-2"	2.5'	1131	223
W4	PEM WETLAND	-	-	0'-1"	-	0.013	0.005
S6	INTERMITTENT	UNMAPPED TRIBUTARY TO UNNAMED USGS PERENNIAL STREAM	3-5' WIDE X 2' DEEP	0"	3-5'	232	0
S8	INTERMITTENT	UNMAPPED TRIBUTARY TO UNNAMED USGS PERENNIAL STREAM	3-5' WIDE X 1-2' DEEP	0"	3-5'	298	189
POND 1	OPEN WATER	PUBHh	-	-	-	0.50	0
W5	PEM WETLAND	-	-	2 - 3"	-	0.12	0
S10	EPHEMERAL	UNMAPPED TRIBUTARY TO UNNAMED USGS PERENNIAL STREAM	3-5' WIDE X 2' DEEP	0"	3-5'	166	0
S11	PERENNIAL	UNMAPPED PERENNIAL TRIBUTARY TO SCARY CREEK (2nd CROSSING)	2-3' WIDE X 2' DEEP	2 - 3"	2-3'	1052	128
W6	PEM/SS WETLANDS	-	-	0'-2"	-	1.88	0.2

* Areas of wetland impact and linear footage of stream were determined based upon GPS data point collection and evaluation using Arc View.

Actual impacted intermittent (feet) =	741	Impacted intermittent (feet) =	800
Actual impacted perennial (feet) =	351	Impacted perennial (feet) =	500
Actual impacted wetlands (acres) =	0.458	Impacted wetlands (acres) =	0.50



UNITS- 46
 GARAGES- 20 (Attached)
 2 (Front)
 18 (Basement)
 TOTAL PARKING NEEDED- 62
 REGULAR- 52
 OVERFLOW-10
 PARKING AVAILABLE- 80
 ACREAGE- 4.55
 CONDOS (1) 2-3 bed type on 3/4 Split
 UNITS- 26
 GARAGES- 6 (Attached)
 PARKING NEEDED- 40
 PARKING AVAILABLE- 31
 ACREAGE- 0.99

UNITS- 36
 GARAGES- 18 (Attached)
 TOTAL PARKING NEEDED- 44
 REGULAR- 36
 OVERFLOW-8
 PARKING AVAILABLE- 42
 ACREAGE- 2.45
 CONDOS (1) 1-2 bed type, 3-story
 UNITS- 22
 GARAGES- 6 (Attached)
 PARKING NEEDED- 27
 PARKING AVAILABLE- 27
 ACREAGE- 1.48

UNITS- 40
 GARAGES- 22 (Attached)
 TOTAL PARKING NEEDED- 62
 REGULAR- 52
 OVERFLOW-10
 PARKING AVAILABLE- 62
 ACREAGE- 5.36
 CONDOS (1) 1-2 bed type, 3-story
 UNITS- 22
 GARAGES- 6 (Attached)
 PARKING NEEDED- 27
 PARKING AVAILABLE- 28
 ACREAGE- 1.36

MAIN CLUBHOUSE and AMENITIES

DEDICATED PARKING- 15
 ACREAGE- 1.12

MAINTENANCE AREA

DEDICATED PARKING- 5
 ACREAGE- 0.36

SITE ENTRY and ACCESS ROAD

ACREAGE- 2.54

ACCESS ROAD IMPROVEMENTS (Area-B)

ACREAGE- 1.36

DETENTION AREAS

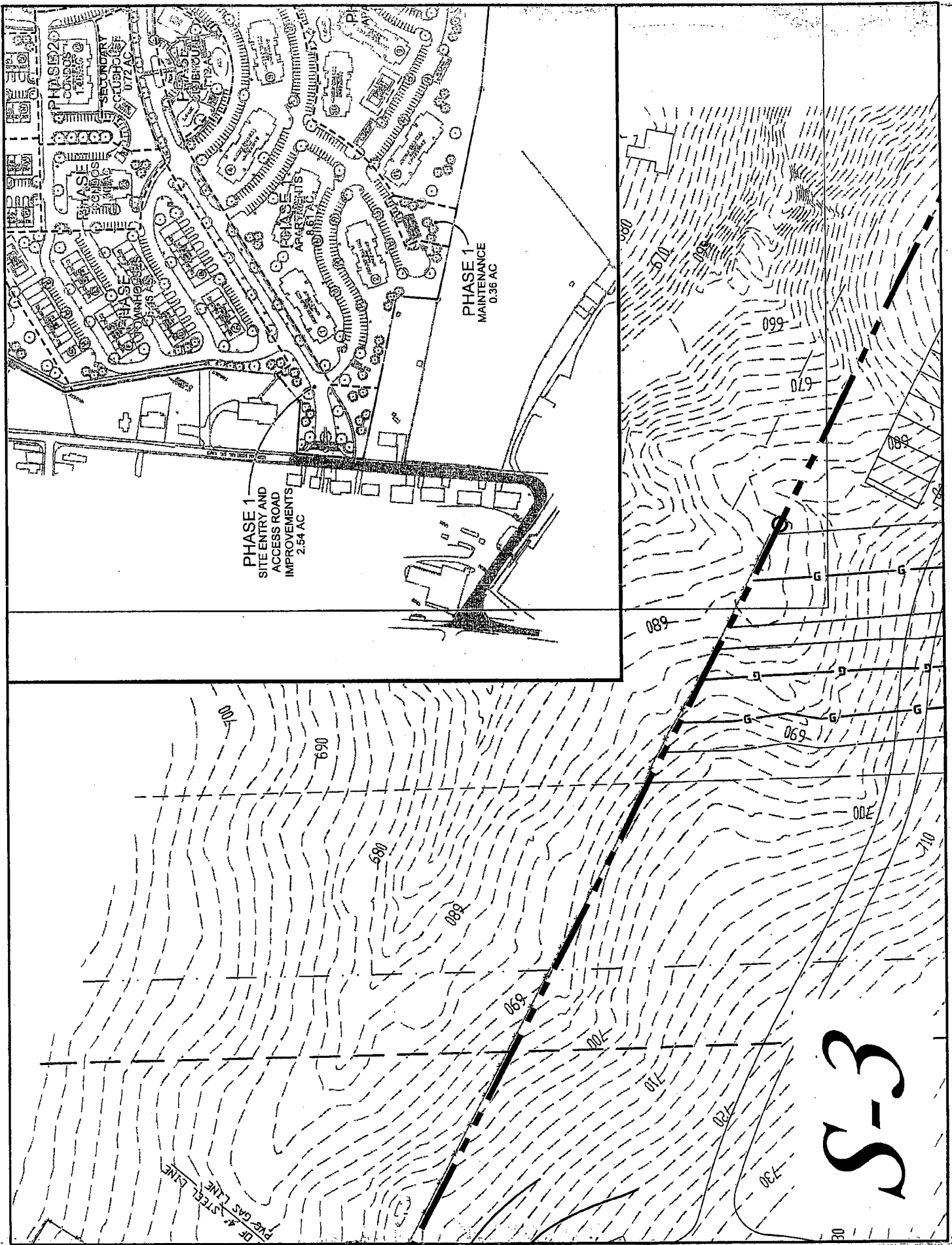
POND #1- 2.75

POND #2, GRAVEL ROAD & LIFT STATION- 8.37

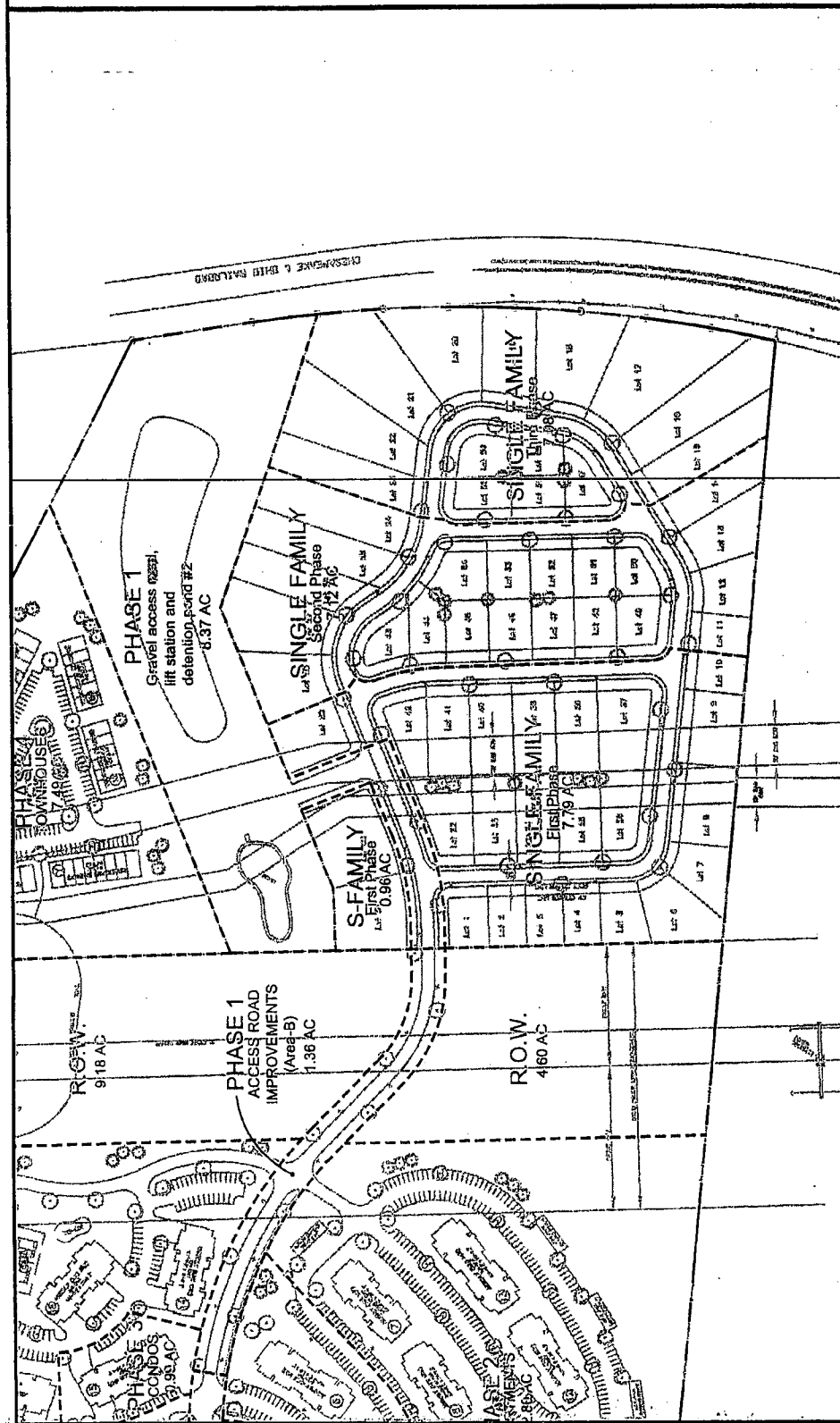
OTHER PHASE-1 ITEMS

Hedrick Road/Route 34 Improvements

S-1

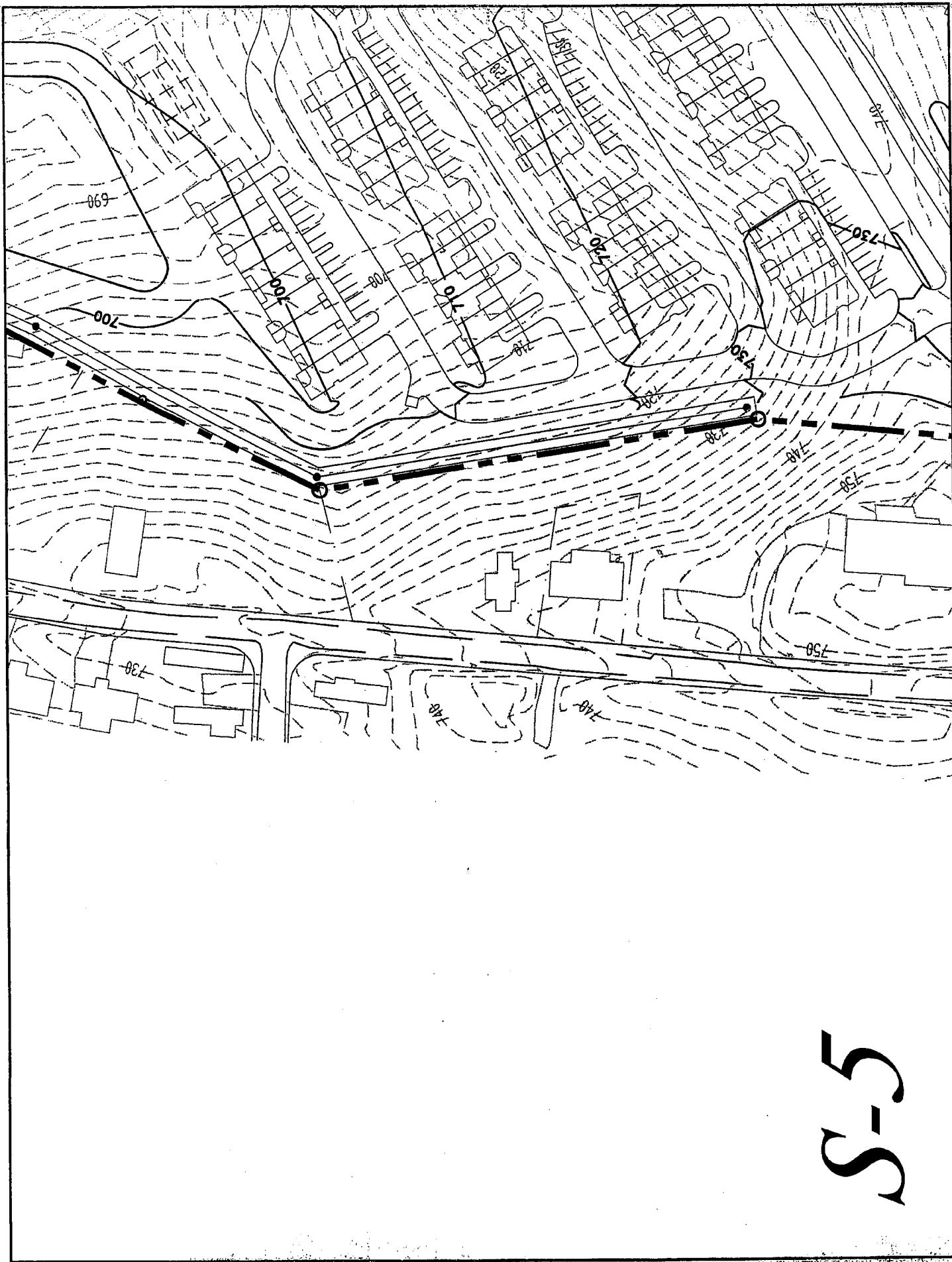


S-3

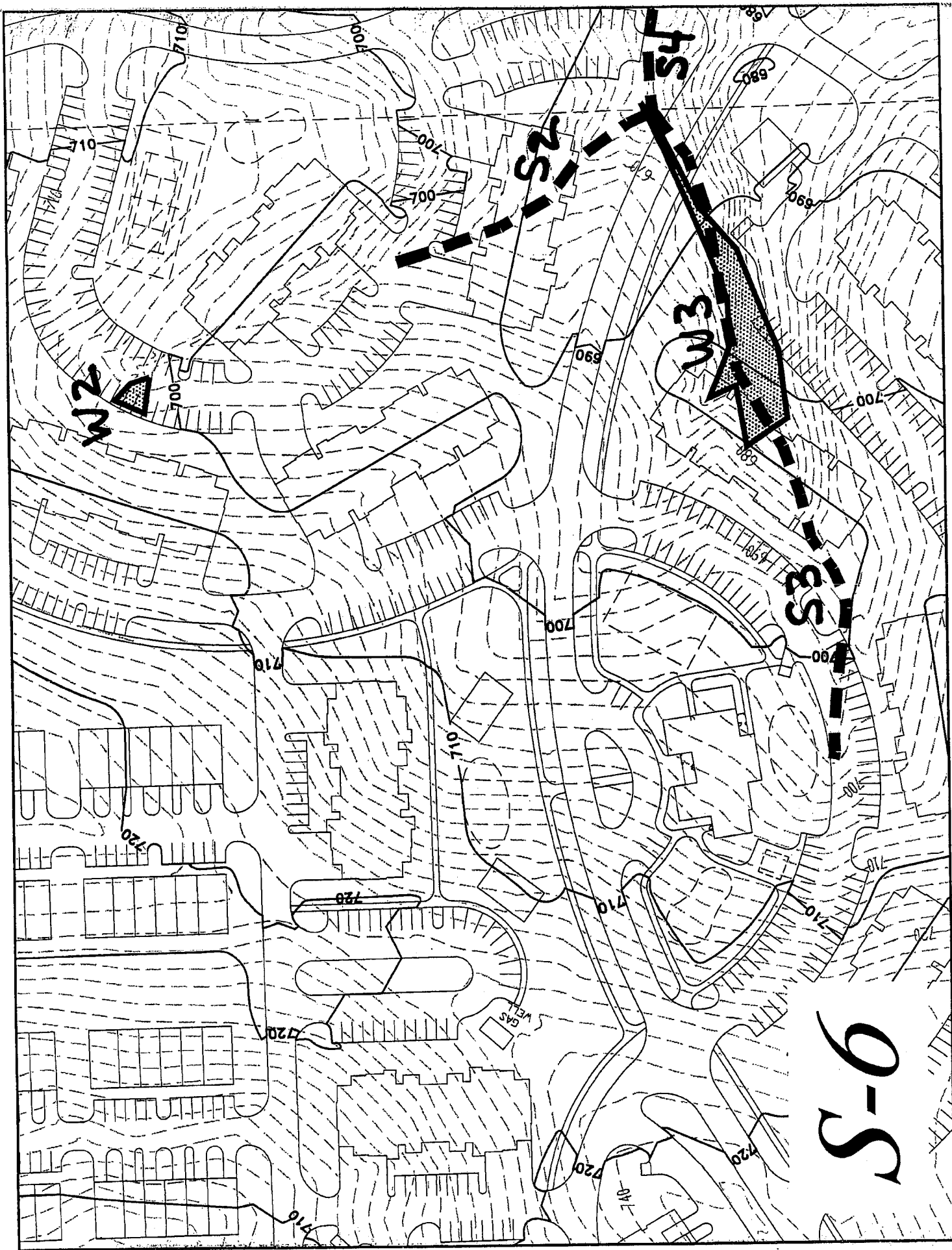


Project Phase Key

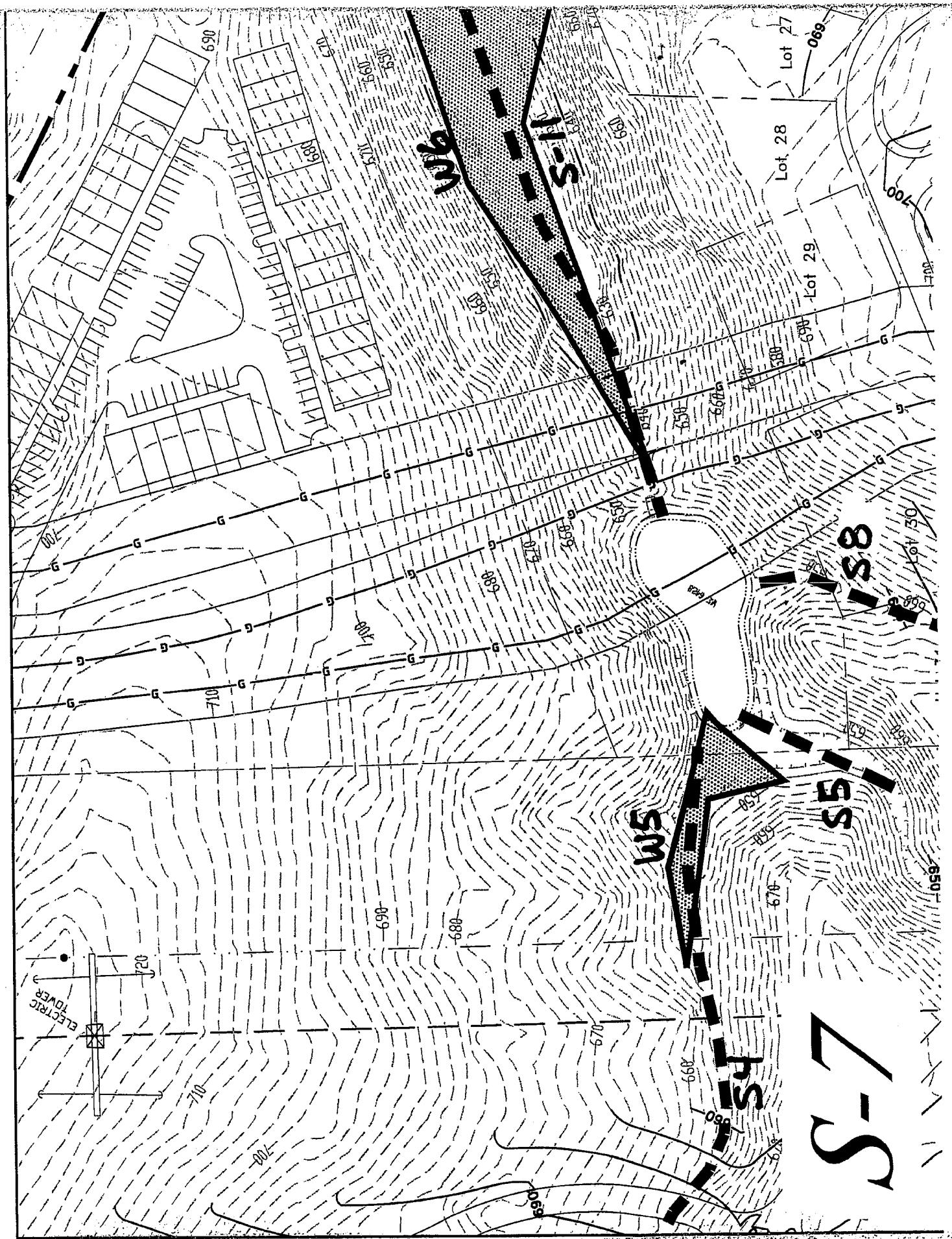
S-4

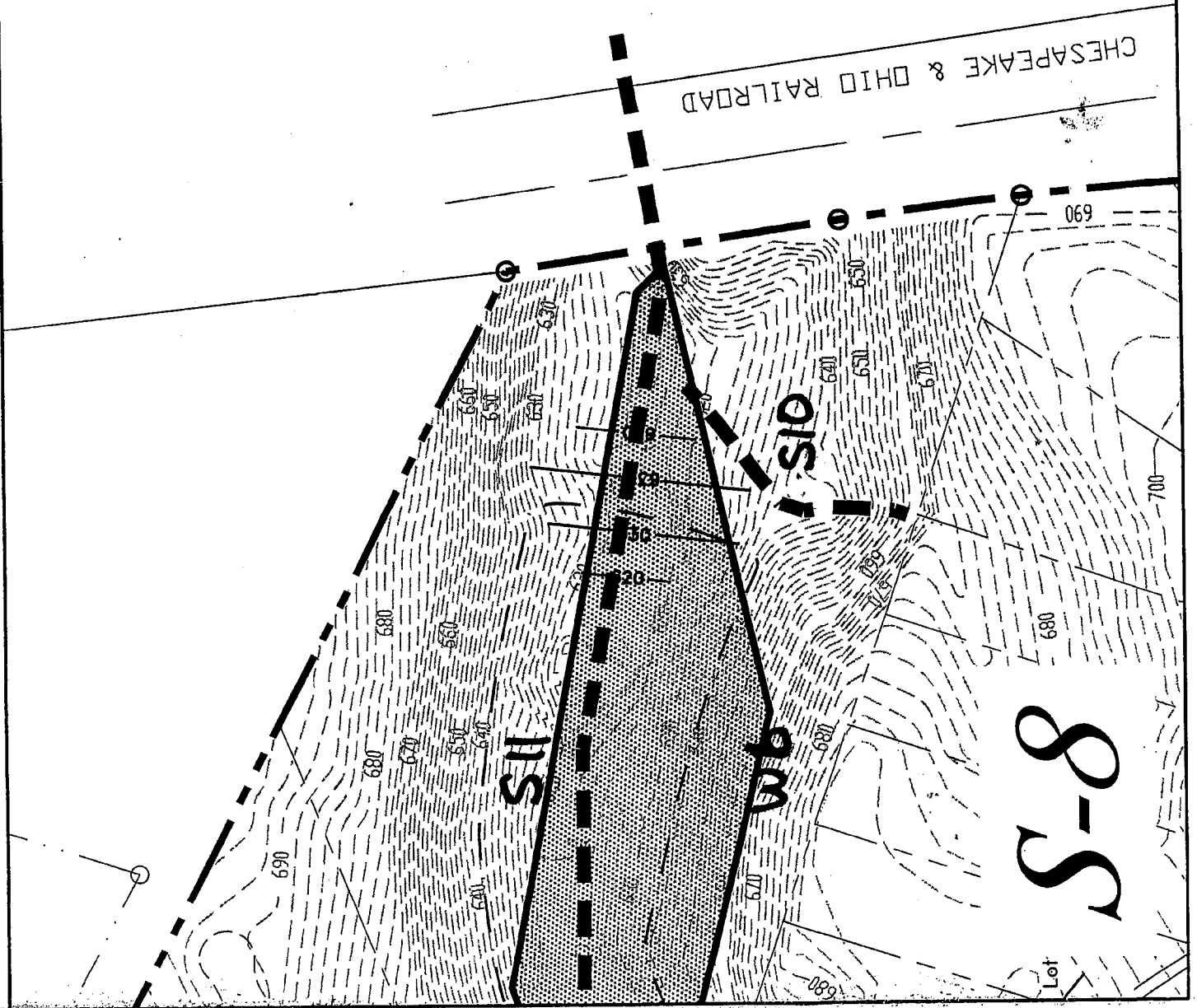


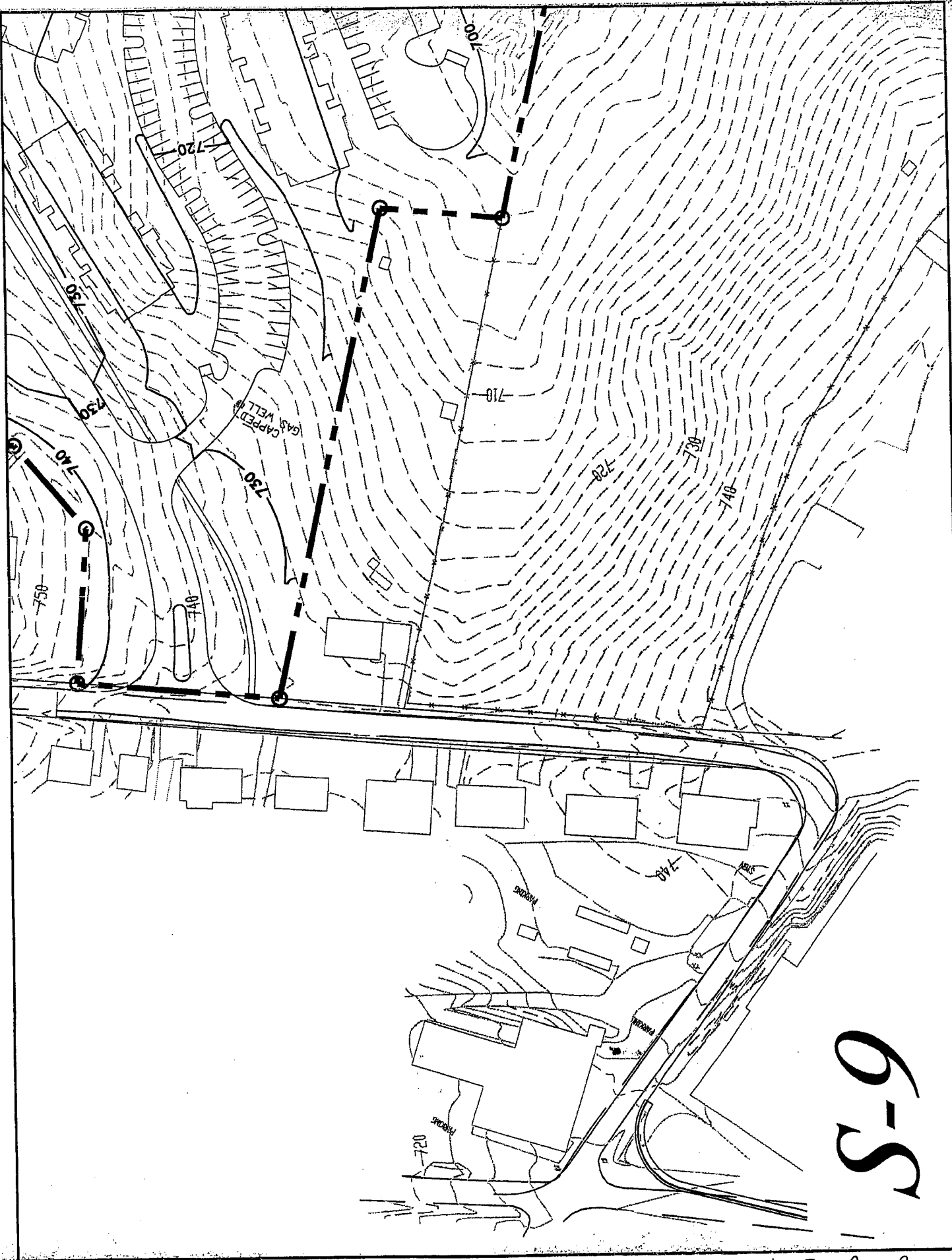
S-5



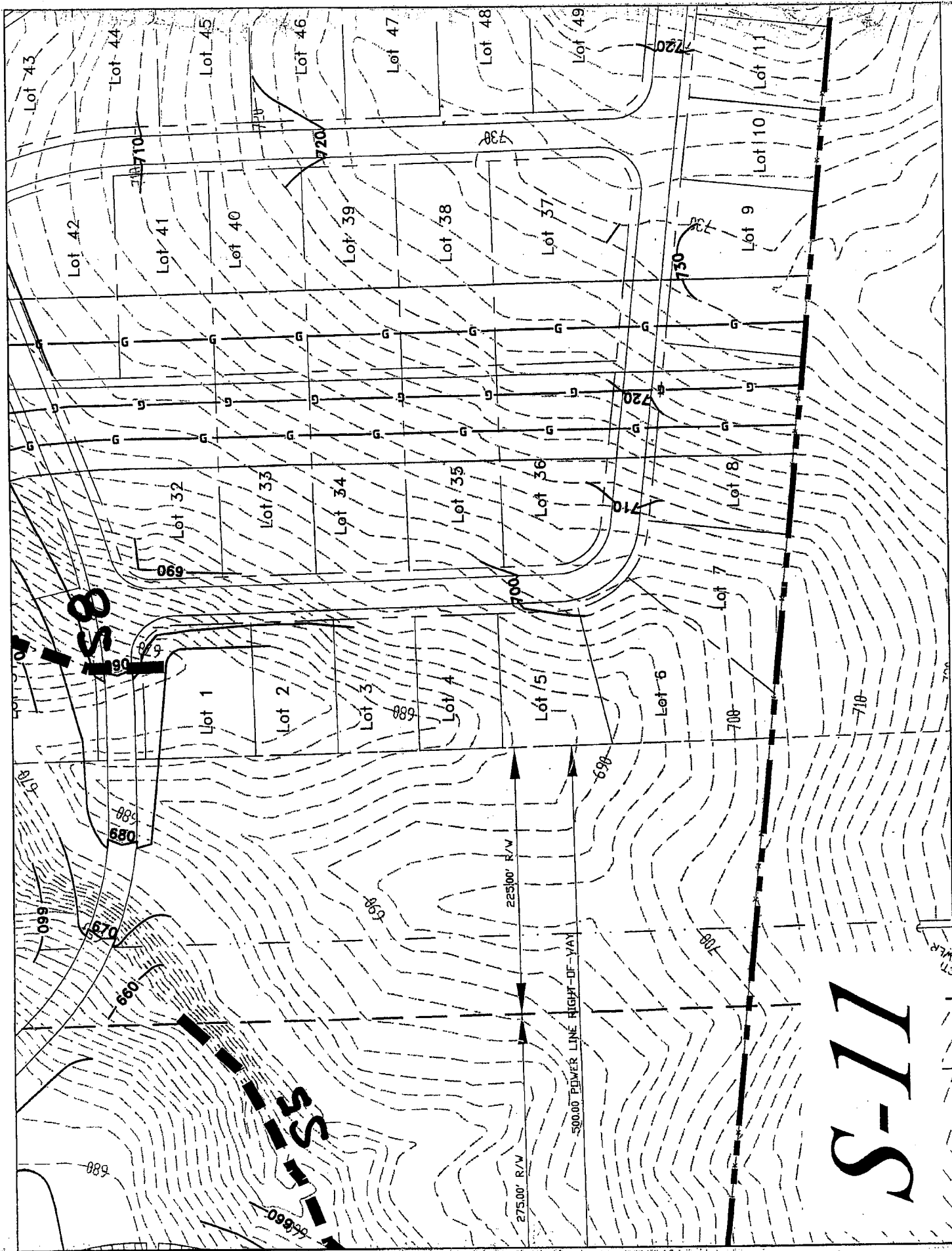
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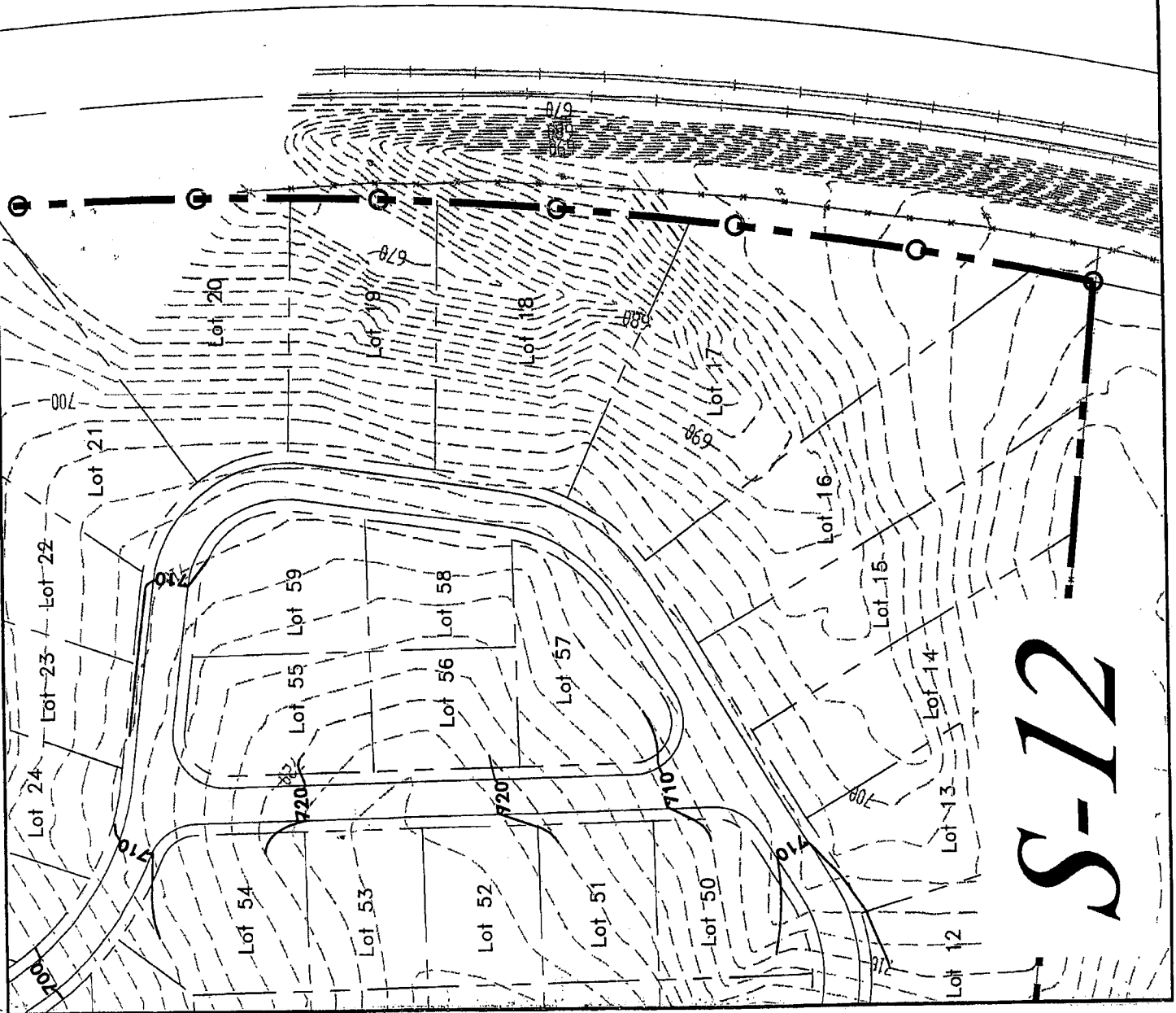






6-S





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Project Phase Summary (Total Site Acreage 111.04)

SINGLE FAMILY
(59 TOTAL LOTS)
(22.95 TOTAL ACRES)

PHASE-1	PHASE-2	PHASE-3	PHASE-4
APARTMENTS (6 total) (4) 2-3 bed types on 3/4 splits (2) 1-2 bed types on 3/4 splits	APARTMENTS (7 total) (4) 2-3 bed types on 3/4 splits (3) 1-2 bed types, 3 story	APARTMENTS (7 total) (3) 2-3 bed types on 3/4 splits (4) 1-2 bed types on 3/4 splits	TOWNHOUSES (24) 2-story, (20) 2 1/2 Splits
UNITS- 168	UNITS- 184	UNITS- 182	UNITS- 44
GARAGES- 0	GARAGES- 36 (Detached)	GARAGES- 42 (Attached)	GARAGES- 0
PARKING NEEDED- 322	PARKING NEEDED- 314	PARKING NEEDED- 261	TOTAL PARKING NEEDED- 97
PARKING AVAILABLE- 322	PARKING AVAILABLE- 314	PARKING AVAILABLE- 281	REGULAR- 88
ACREAGE- 8.61	ACREAGE- 12.80	ACREAGE- 12.00	OVERFLOW- 9
TOWNHOUSES (14) 2-story, (34) 2 1/2 Splits	TOWNHOUSES (18) 2-story, (18) 2 1/2 Splits	TOWNHOUSES (46) 2 1/2 Splits	PARKING AVAILABLE- 129
UNITS- 48	UNITS- 36 (Attached)	UNITS- 46	ACREAGE- 7.49
GARAGES- 22 (Attached)	GARAGES- 18 (Attached)	GARAGES- 20 (Attached)	OTHER ACREAGE
TOTAL PARKING NEEDED- 62	TOTAL PARKING NEEDED- 44	2 (Front)	POWER LINE RIGHT OF WAY
REGULAR- 52	REGULAR- 36	18 (Basement)	ACREAGE- 13.78
OVERFLOW- 10	OVERFLOW- 8	TOTAL PARKING NEEDED- 62	SECONDARY CLUBHOUSE and AMENITIES
PARKING AVAILABLE- 62	PARKING AVAILABLE- 42	REGULAR- 52	DEDICATED PARKING- 10
ACREAGE- 5.36	ACREAGE- 2.45	OVERFLOW- 10	ACREAGE- 0.72
CONDOS (1) 1-2 bed type, 3-story	CONDOS (1) 1-2 bed type, 3-story	PARKING AVAILABLE- 80	
UNITS- 22	UNITS- 22	ACREAGE- 4.55	
GARAGES- 6 (Attached)	GARAGES- 6 (Attached)	CONDOS (1) 2-3 bed type on 3/4 Split	
PARKING NEEDED- 27	PARKING NEEDED- 27	UNITS- 26	
PARKING AVAILABLE- 28	PARKING AVAILABLE- 27	GARAGES- 6 (Attached)	
ACREAGE- 1.36	ACREAGE- 1.48	PARKING NEEDED- 40	
MAIN CLUBHOUSE and AMENITIES		PARKING AVAILABLE- 31	
DEDICATED PARKING- 15		ACREAGE- 0.99	
MAINTENANCE AREA			
ACREAGE- 1.12			
DEDICATED PARKING- 5			
ACREAGE- 0.36			
SITE ENTRY and ACCESS ROAD			
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